Michael K. Jeanes, Clerk of Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2008-007786-001 DT 02/04/2013

HONORABLE PAUL J. MCMURDIE

CLERK OF THE COURT
L. Mitchell
Deputy

STATE OF ARIZONA

BEVERLY JEAN RUDNICK

v.

RONALD JAY EDWIN (001)

RONALD JAY EDWIN
#252197 ASPC KINGMAN CERBAT
P O BOX 3939
KINGMAN AZ 86402

COURT ADMIN-CRIMINAL-PCR

MINUTE ENTRY

The Court has reviewed the defendant's Notice of Post-Conviction Relief and Request for Preparation of Post-Conviction Relief Record both filed January 22, 2013.

The defendant pled guilty to one count of Theft, a Class 2 Felony; and one count of Acquisition of Narcotic Drugs by Fraud, a Class 3 Felony with one prior felony conviction. The Court sentenced the defendant on March 22, 2010, to a 4 year term of imprisonment. This is the defendant's second Rule 32 proceeding and it has been brought before the Court in an untimely fashion. The defendant's first Rule 32 proceeding was dismissed on March 11, 2011.

Pursuant to Rule 32.4(a) of the Arizona Rules of Criminal Procedure, the Notice of Post-Conviction Relief must be filed within 90 days of the entry of judgment and sentencing or within 30 days of the issuance of the final Order or Mandate from the appellate court. The defendant was sentenced on March 22, 2010. In order for the defendant's notice of post-conviction relief to be considered timely filed, it would have needed to be filed prior to June 22, 2010.

The defendant claims, pursuant to Ariz. R. Crim. P. 32.1(e), that there are newly discovered material facts which probably would have changed the verdict or sentence in her case. To be entitled to post-conviction relief based on newly discovered evidence, the defendant

must show that the evidence was discovered after trial although existed before trial; the evidence could not have been discovered and produced at trial or appeal through reasonable diligence; the evidence is neither solely cumulative nor impeaching; the evidence is material; and the evidence probably would have changed the verdict or sentence. *State v. Saenz*, 197 Ariz. 487, 489, ¶ 7, 4 P.3d 1030, 1032 (App. 2000), *see also* Ariz. R. Crim. P. 32.1(e).

Defendant fails to support this claim. The defendant states that he has been made aware of information relating to one of the State's witnesses. However, the defendant fails to provide any facts, affidavits, records, or other evidence to support why these facts could not have been discovered and produced at trial through reasonable diligence.

A defendant must comply strictly with Rule 32 by asserting substantive grounds which bring her within the provisions of the Rule in order for the Court to grant relief. *State v. Manning*, 143 Ariz. 139, 141, 692 P.2d 318, 320 (1984). Defendant fails to state a claim for which relief can be granted in an untimely Rule 32 proceeding.

Regarding the request for preparation of the record, the defendant does not set forth any factual or legal basis to support why the requested documents are needed and how the will support a claim for which Rule 32 may provide relief. In addition, the defendant does not have an active Rule 32 proceeding pending at this time.

IT IS THEREFORE ORDERED denying the motion.

IT IS FURTHER ORDERED dismissing defendant's Notice of Post-Conviction Relief.